

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-160499
		TRIAL NO. 16CRB-3686
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
WILLIAM DABNEY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Ginnie Howard was the live-in girlfriend of defendant-appellant William Dabney. On the morning of February 11, 2016, Dabney returned home after a night out. Howard and Dabney got into an argument which continued for several minutes. According to Howard's testimony, Dabney eventually hit her in the eye with a closed fist. After being struck, Howard fell backward, grabbing Dabney and pulling him to the floor as she fell. She then got up and went into the bathroom to take a shower. After showering, Howard attempted to leave the bathroom. As she repeatedly tried to open the door, Dabney kept shutting it. Eventually, Howard's thumb got caught in the door causing significant injury.

A criminal complaint was filed against Dabney asserting that he had committed an act of domestic violence. The complaint stated that Dabney did "knowingly cause physical harm to [Howard], a family or household member \* \* \*, contrary to and in violation of Section 2919.25 of the Revised Code of Ohio, a[n] M-1 degree." Additionally, the officer wrote that the complaint was based on "Mr. Dabney and Ms. Howard have lived together for 4 years. Today he engaged her in a fight in which roughly half her right thumbnail was torn off." Dabney was tried on the charge, found guilty, and sentenced accordingly.

In one assignment of error, Dabney claims that his conviction was based upon insufficient evidence. He argues that the record did not support the conclusion that he knowingly injured Howard's thumb, and that his conviction could not be based on his punching her in the eye because that conduct was not detailed in the complaint.

The first issue is whether the conduct that resulted in the injury to Howard's thumb constituted domestic violence. We find it did not. Howard said that "I opened the door; and for some reason, he kept pulling the door closed so I couldn't get out of the shower. So we were tugging with the door, and that's when my thumb got caught some kind of way, and that's when it just kind of split in half." Dabney's account likewise provided no evidence that he had knowingly caused the injury. He said that "[n]ext thing you know we \* \* \* she shut the \* \* \* I opened the door and she shut \* \* \* I opened the door, and I said I called her a name. I shut it, and that's when I think her finger got caught in the door." This evidence was insufficient to establish that Dabney knowingly caused the injury to Howard's thumb, and thus could not form the basis for a conviction for assault.

Dabney next argues that the evidence indicating that he punched Howard in the eye could not support his conviction because the complaint "alleged [he] knowingly caused physical harm to [her] thumb," and did not allege that he punched her. He argues that, if the state had wanted to allege physical harm caused by the punch, it should have sought to amend the complaint.

The purpose of a charging instrument, such as a criminal complaint, is to give the defendant adequate notice of the charge. *See State v. Buehner*, 110 Ohio St.3d 403, 2006-Ohio-4707, 853 N.E.2d 1162, ¶ 7. A criminal complaint must contain, in relevant part, "a written statement of the essential facts constituting the offense charged," and "shall also state the numerical designation of the applicable statute or ordinance." *See* Crim.R. 3.

Here, the complaint stated the numerical designation of the statute Dabney was charged with violating, R.C. 2919.25, and specified that Dabney “knowingly cause[d] physical harm to [Howard], a family or household member.” The complaint contained the numerical designation of the statute, named the victim, the date, and the elements of the offense. While it included additional information describing the altercation as “a fight *in which* roughly half her right thumbnail was torn off,” this language did not limit the actionable conduct in this case to that discrete injury in the altercation.

And the record makes clear that the parties understood this to be the case. Dabney’s counsel, in closing argument, discussed *only* the allegation that Dabney had punched Howard in the eye—arguing that the punch did not occur, and that the discoloration around her eye in the photograph was her usual coloring. Counsel concluded with “[r]eally the only disagreement that we have is just about whether or not he punched her in the eye.” At no point did counsel argue that the conduct was not encompassed in the language of the complaint.

We overrule Dabney’s sole assignment of error, and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., MYERS and DETERS, JJ.**

To the clerk:

Enter upon the journal of the court on May 31, 2017  
per order of the court \_\_\_\_\_.  
Presiding Judge